

1 THE HONORABLE RICARDO S. MARTINEZ
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

9 ANDREY LAVRENTYEV and TATYANA LAVRENTYEV, a married couple,	No. 2:21-cv-00726-RSM
10 Plaintiffs,	STIPULATED MOTION TO CONTINUE 11 TRIAL AND AMEND CASE SCHEDULE 12 AND ORDER
13 vs. 14 GEICO ADVANTAGE INSURANCE COMPANY, a foreign insurer,	Note on Motion Calendar: 15 December 2, 2021 16 Defendant.

17 **I. AGREED MOTION**

18 Plaintiffs Andrey and Tatyana Lavrentyev and Defendant Geico Advantage Insurance
19 Company (collectively “the parties”) bring this joint motion pursuant to LCR 10(g) and
20 respectfully request that this Court modify its July 27, 2021 Order (Dkt. No. 10) by rescheduling
21 the July 11, 2022 jury trial date by approximately 60 days and similarly adjusting all discovery
22 and trial-related deadlines as set forth below in Section III of this motion.

23 This matter was originally filed on removal from King County Superior Court on June
24 2, 2021 (Dkt. No. 1). The parties’ joint status report and discovery plan was filed July 9, 2021
25 (Dkt. No. 9) and the Order setting trial date and related dates (Dkt. No. 10) was entered July
26 27, 2021. Since that time, the parties have diligently exchanged initial disclosures and have

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DISCOVERY DEADLINES AND ORDER
(Cause No. 2:21-cv-00726-RSM) – 1
sw/KW6710.532/4043479x

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1 conducted extensive written discovery, with GEICO Advantage producing nearly 1,000 pages
 2 of documents, which consist of its claim file and non-privileged communications pertaining to
 3 this matter.

4 The parties have been working to complete outstanding discovery, but with Plaintiff's
 5 illness and the number of witnesses for GEICO Advantage still to be deposed, depositions
 6 cannot be completed with sufficient time for the parties to provide complete information to their
 7 experts to complete expert reports by the January 12, 2022 deadline. To that end, the parties
 8 have agreed, subject to the court moving the trial and related dates, to conduct depositions of
 9 GEICO Advantage's corporate designee and GEICO employees in late January. The parties
 10 have also agreed to conduct a mediation in January in an attempt to resolve this matter before
 11 expending additional time and resources completing discovery. Good cause exists for a
 12 continuance of the trial date and related deadlines as outlined below.

13 **II. GOOD CAUSE IS ESTABLISHED**

14 Fed. R. Civ. P. 16(b) provides that "a schedule shall not be modified except upon a
 15 showing of good cause and by leave of the district judge . . ." A party moving to amend a
 16 schedule should show that the deadlines presented cannot reasonably be met despite the
 17 diligence of the party seeking an extension. *Pfeiffer v. Eagle Mfg. Co.*, 137 F.R.D. 352, 355
 18 (D. Kan. 1991); *Sithon Maritime Co. v. Holiday Mansion*, 177 F.R.D. 504, 508 (D. Kan. 1998);
 19 Wright & Miller, *6A Federal Practice & Procedure*, § 1522.1, p. 230-31 (citing Advisory
 20 Committee notes to 1983 Amendment to Rule 16); *ICU Med., Inc. v. Rymed Tech., Inc.*, 674 F.
 21 Supp. 2d 574, 577 (D. Del. 2009). Courts should grant extensions when the moving party can
 22 show that it has worked diligently to position the case for trial or for disposition by motion, but
 23 unforeseeable circumstances or events beyond its control denied the moving party a fair
 24 opportunity to develop the evidence it needs under the existing scheduling order. *See*, 3 James
 25

1 Wm. Moore et al., *Moore's Federal Practice* § 16.14. "Good cause" exists when the moving
 2 party has been generally diligent, the need for more time was neither foreseeable nor its fault,
 3 and refusing to grant the continuance would create a substantial risk of unfairness to that party.
 4 *ICU Med., Inc.*, 674 F. Supp. 2d at 577. To establish "good cause," parties seeking modification
 5 of a scheduling order must generally show that, even with the exercise of due diligence, they
 6 cannot meet the order's timetable. *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609
 7 (9th Cir. 1992).

9 Here, the parties have been diligent in conducting discovery but unforeseen events and
 10 the parties' discovery needs warrant an extension of the trial date and discovery and trial-related
 11 deadlines. Under the current case deadlines, the parties will be unable to complete depositions
 12 of witnesses, including GEICO Advantage's corporate designee(s) and employees, before the
 13 expert disclosure cut off.

14 **A. Plaintiff's illness and recent return to the United States**

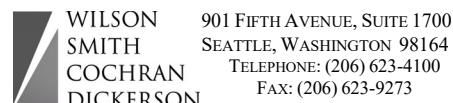
16 Both Plaintiffs have been dealing with Ms. Lavrentyev's serious health issues which has
 17 required them to travel outside of the United States for medical treatment. Plaintiffs only
 18 recently arrived back in the states and treatment will likely continue. As a result of Plaintiff's
 19 illness, the parties postponed Mr. Lavrentyev's deposition to December of 2021 and Ms.
 20 Lavrentyev's deposition has not yet been scheduled. Continuing the discovery cutoff will allow
 21 the parties to schedule Ms. Lavrentyev's deposition so it does not interfere with her health and
 22 medical treatment.

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26 **B. Extensive discovery needs**

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1 GEICO Advantage has produced nearly 1,000 pages of claim file documents and email
 2 communications which pertain to Plaintiffs' claim(s) with Geico and which are related to the
 3 basis of Plaintiffs' Complaint against GEICO Advantage. The parties are currently working to
 4 reach an agreement on the production of additional records from GEICO Advantage. Extending
 5 the expert disclosure deadline will allow the parties to complete the exchange of documents.
 6

7 **C. *Plaintiffs' depositions of GEICO Advantage's corporate designee and***
 employees.

8 Plaintiffs have noted depositions of GEICO Advantage's corporate designee and
 9 GEICO Advantages employees, but with the number of witnesses, the prep time involved for
 10 those depositions, and the holidays in the month of December, the witnesses will not all be
 11 available for their depositions with sufficient time for Plaintiffs to provide information to their
 12 experts by the January 12, 2022 expert disclosure deadline. In addition, the parties hope to
 13 mediate in January of 2022, prior to conducting additional discovery and incurring related costs.
 14

15 **D. *No prior continuances***

16 Lastly, this is the parties' first request for a continuance of the trial date or related
 17 deadlines and the parties do not anticipate requesting any future continuances.
 18

19 In order to effectuate the parties' discovery needs outlined above, the parties have
 20 agreed to conduct depositions of GEICO Advantage in January of 2022, subject to the Court
 21 granting a 60-day extension of the trial deadline and discovery deadlines.
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1 **III. PROPOSED REVISED CASE SCHEDULE**

2 The parties request that the Court revise the case schedule as follows:

Activity	Current Deadline	Proposed Deadline
Trial Date	July 11, 2022	August 29, 2022
Deadline for amending pleadings and joining additional parties	August 24, 2021	October 25, 2021
Reports from expert witnesses under FRCP 26(a)(2) due	January 12, 2022	March 14, 2022
Deadline for filing motions related to discovery. Any such motions shall be noted for consideration pursuant to LCR 7(d)(3)	February 11, 2022	April 12, 2022
Discovery completed by	March 14, 2022	May 13, 2022
All dispositive motions must be filed by and noted on the motion calendar no later than the fourth Friday thereafter (see LCR 7(d))	March 17, 2022	May 16, 2022
Mediation, per LCR 39.1(c)(3), if requested by the parties, held no later than	May 27, 2022	July 26, 2022
All motions in limine must be filed by and noted on the motion calendar no later than the THIRD Friday thereafter.	June 13, 2022	August 1, 2022
Agreed pretrial order due	June 29, 2022	August 17, 2022
Pretrial conference to be scheduled by the Court.	TBD	TBD
Trial briefs, proposed voir dire questions, proposed jury instructions, and trial exhibits due	July 6, 2022	August 24, 2022

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1 DATED this 2nd day of December, 2021.

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Of Attorneys for Defendant GEICO Advantage

10 DATED this 2nd day of December, 2021.

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18 Attorney for Plaintiff

ORDER

IT IS SO ORDERED.

DATED this 17th day of December, 2021.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

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